

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CARLOS HECTOR DELGADILLO )  
ALVAREZ, )  
 )  
Petitioner, )  
 )  
v. ) 1:16CR241-2  
 ) 1:18CV944  
 )  
UNITED STATES OF AMERICA, )  
 )  
Respondent. )

**ORDER**

On February 22, 2022, the United States Magistrate Judge's Recommendation ("Recommendation") was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 93, 94.) No objections were filed within the time limits prescribed by Section 636.

The record reflects that the Recommendation was served by mail to Petitioner's last known address at Victorville Medium 1, Federal Correctional Institution, P.O. Box 3725, Adelanto, California 92301. On March 10, 2022, mail was returned to the Clerk as undeliverable because Petitioner is no longer at the facility. (Doc. 95.) This court's Order, (Doc. 96), filed on March 17, 2022, stayed the civil action, 1:18CV944, for sixty-three days, or until May 10, 2022, directing Petitioner to file with the court a current address as required by Local Rule

11.1(b). The record further reflects that the court's Order, (Doc. 96), mailed to Petitioner's last known address in Adelanto, California, was returned to the Clerk on March 31, 2022, undeliverable and unable to forward. (Doc. 97.)

LR 11.1(b) provides:

[i]f mail directed to a pro se plaintiff from the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

More than 63 days have passed since mail has been returned. This court finds this action should be dismissed without prejudice for failure to prosecute,

**IT IS THEREFORE ORDERED** that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, (Doc. 76), is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

This the 11th day of May, 2022.

William L. Oshan, Jr.  
United States District Judge